

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X	
PEDRO AGRA,	:
	:
	<u>ORDER</u>
Appellant,	:
	:
	23-CV-7657 (VEC)
-against-	:
	:
MAJOR MODEL MANAGEMENT INC.,	:
	:
	Appellee.
	:

VALERIE CAPRONI, United States District Judge:

WHEREAS on August 18, 2023, the Bankruptcy Court dismissed all claims with prejudice against the Debtor-Appellee Major Model Management Inc. but did not issue an order or judgment regarding the non-debtor defendants, holding that “[n]othing herein affects Agra’s rights to pursue his claims against the non-debtor defendants,” *see In re Major Model Mgmt. Inc.*, No. 22-10169, 2023 WL 5338580, at *10 (Bankr. S.D.N.Y. 2023);

WHEREAS on October 24, 2023, Appellant filed a Motion for leave to appeal from the Bankruptcy Court’s August 18, 2023 order (“Motion”), *see* Dkt. 13; *see also* Dkt. 7; and

WHEREAS under 28 U.S.C. § 158(a)(3), “a district court has discretionary appellate jurisdiction over an interlocutory order of a bankruptcy court,” *In re Kassover*, 343 F.3d 91, 94 (2d Cir. 2003); and

WHEREAS in deciding whether to grant leave to appeal an interim order of a bankruptcy court, district courts apply the standard governing interlocutory appeals set forth in 28 U.S.C. § 1292(b). Pursuant to that standard, leave to appeal may be granted when the movant demonstrates “(1) that the non-final order to be appealed presents a ‘controlling question of law,’ (2) that there is ‘substantial ground for difference of opinion’ as to the controlling question; and

(3) that immediate appeal would ‘materially advance the ultimate termination of the litigation,’” see *Hometrust Mortg. Co. v. Lehman Bros. Holdings*, No. 15-CV-4060, 15-CV-4061, 2015 WL 5674899, at *2 (S.D.N.Y. Sep. 25, 2015).

IT IS HEREBY ORDERED that Appellant’s Motion is GRANTED. Because the Bankruptcy Court confirmed the bankruptcy plan in June 2023, and Appellant’s claims against the non-debtors do not “have a close nexus to the bankruptcy plan or proceeding,” the Bankruptcy Court lacks subject matter jurisdiction over Appellant’s remaining claims. *In re Park Ave. Radiologists, P.C.*, 450 B.R. 461, 468 (Bankr. S.D.N.Y. 2011) (explaining that post-confirmation jurisdiction shrinks only to matters that have a close nexus to the plan and where the plan explicitly retains jurisdiction over the dispute). The Court finds that it would be a waste of judicial resources to remand to the Bankruptcy Court to dismiss the remaining claims for lack of jurisdiction or withdraw the reference to the claims. To promote judicial efficiency, the Court exercises its discretion to grant Agra leave to appeal the Bankruptcy’s Court’s August 18, 2023 Order.

IT IS FURTHER ORDERED that the parties are directed to confer and submit a proposed briefing schedule for the appeal to the Court no later than **December 22, 2023**.

The Clerk of Court is respectfully directed to close the open motion at Dkt. 13.

SO ORDERED.

Date: December 11, 2023
New York, New York



VALERIE CAPRONI
United States District Judge